

## **JUDICIARY DEPARTMENT**

### **§ 28. [COURTS OF JUSTICE]**

The Courts of Justice shall be open for the trial of all causes proper for their cognizance; and justice shall be therein impartially administered, without corruption or unnecessary delay.

### **§ 29. [THE SUPREME COURT; COMPOSITION]**

The Supreme Court shall consist of the Chief Justice of the State and four associate justices of the Supreme Court.

### **§ 30. [SUPREME COURT; JURISDICTION]**

The Supreme Court shall exercise appellate jurisdiction in all cases, criminal and civil, under such terms and conditions as it shall specify in rules not inconsistent with law. The Supreme Court shall have original jurisdiction only as provided by law, but it shall have the power to issue all writs necessary or appropriate in aid of its appellate jurisdiction. The Supreme Court shall have administrative control of all the courts of the state, and disciplinary authority concerning all judicial officers and attorneys at law in the State.

### **§ 31. [LOWER COURTS; JURISDICTION]**

All other courts of this State shall have original and appellate jurisdiction as provided by law. All courts except the Supreme Court may be divided into geographical and functional divisions as provided by law or by judicial rules adopted by the Supreme Court not inconsistent with law. The jurisdiction of geographical and functional divisions shall be as provided by law or by judicial rules not inconsistent with law. The courts of this state may exercise equity jurisdiction as well as law jurisdiction in civil proceedings as may be provided by law or by judicial rules not inconsistent with law.

### **§ 32. [FILLING JUDICIAL VACANCIES]**

The Governor, with the advice and consent of the Senate, shall fill a vacancy in the office of the Chief justice of the State, associate justice of the Supreme Court or judge of any other court, except the office of Assistant Judge and of Judge of Probate, from a list of nominees presented by a judicial nominating body established by the General Assembly having authority to apply reasonable standards of selection.

### **§ 33. [INTERIM JUDICIAL APPOINTMENTS]**

When the Senate is not in session, the Governor may make an interim appointment to fill a vacancy in the office of chief justice, associate justice of the Supreme Court or judge of any other court, except the office of Assistant Judge and of Judge of Probate, from a list of nominees presented by the judicial nominating body. A justice or judge so appointed shall hold office, with all the powers incident to the office, until the Senate convenes and acts upon the appointment submitted by the Governor. Thereafter, the appointee shall continue in office if the Senate consents to the appointment. If the appointment is not confirmed upon vote of the Senate, the appointment shall be terminated and a vacancy in the office will be created.

#### **§ 34. [JUDICIAL TERM OF OFFICE]**

The justices of the Supreme Court and judges of all subordinate courts, except Assistant Judges and Judges of Probate, shall hold office for terms of six years except when holding office under an interim appointment. At the end of the initial six year term and at the end of each six year term thereafter, such justice or judge may give notice in the manner provided by law of a desire to continue in office. When such justice or judge gives the required notice, the question of continuance in office shall be submitted to the General Assembly and the justice or judge shall continue in office for another term of six years unless a majority of the members of the General Assembly voting on the question vote against continuation in office.

#### **§ 35. [MANDATORY RETIREMENT]**

All justices of the Supreme Court and judges of all subordinate courts shall be retired at such age, not less than seventy years of age, as the General Assembly may prescribe by law, or, if the General Assembly has not so provided by law, at the end of the calendar year in which they attain seventy years of age or at the end of the term of election during which they attain seventy years of age, as the case may be, and shall be pensioned as provided by law. The chief justice may from time to time appoint retired justices and judges to special assignments as permitted under the rules of the Supreme Court.

#### **§ 36. [SUSPENSION AND REMOVAL; IMPLEMENTATION PROCEDURES FOR SECTIONS 32 THROUGH 36]**

The justices of the Supreme Court and the judges of all subordinate courts shall hold office during good behavior for the terms for which they are appointed. The Supreme Court in the exercise of its disciplinary power over the judiciary of the state may suspend justices of the Supreme Court and judges of all subordinate courts from the judicial function for such cause and in such manner as may be provided by law. The General Assembly may establish procedures for the implementation of the provisions of sections thirty-two through thirty-six.

### **§ 37. [RULE-MAKING POWER]**

The Supreme Court shall make and promulgate rules governing the administration of all courts, and shall make and promulgate rules governing practice and procedure in civil and criminal cases in all courts. Any rule adopted by the Supreme Court may be revised by the General Assembly.

### **§ 38. [JURY TRIALS]**

Trials of issues, proper for the cognizance of a Jury as established by law or by judicial rules adopted by the Supreme Court not inconsistent with law, in the Supreme Court, the Superior Court and other subordinate courts, shall be by Jury, except where parties otherwise agree; and great care ought to be taken to prevent corruption or partiality in the choice and return, or appointment of Juries.

### **§ 39. [FORMS OF PROSECUTIONS AND INDICTMENTS; FINES]**

All prosecutions shall commence, By the authority of the State of Vermont . All Indictments shall conclude with these words, against the peace and dignity of the State . And all fines shall be proportioned to the offences.

### **§ 40. [EXCESSIVE BAIL PROHIBITED; PRISONERS BAILABLE; IMPRISONMENT FOR DEBT PROHIBITED]**

Excessive bail shall not be exacted for bailable offenses. All persons shall be bailable by sufficient sureties, except as follows:

- (1) A person accused of an offense punishable by death or life imprisonment may be held without bail when the evidence of guilt is great.
- (2) A person accused of a felony, an element of which involves an act of violence against another person, may be held without bail when the evidence of guilt is great and the court finds, based upon clear and convincing evidence, that the person's release poses a substantial threat of physical violence to any person and that no condition or combination of conditions of release will reasonably prevent the physical violence. A person held without bail prior to trial under this paragraph shall be entitled to review de novo by a single justice of the Supreme Court forthwith.
- (3) A person awaiting sentence, or sentenced pending appeal, may be held without bail for any offense.

A person held without bail prior to trial shall be entitled to review of that determination by a panel of three Supreme Court Justices within seven days after bail is denied.

Except in the case of an offense punishable by death or life imprisonment, if a person is held without bail prior to trial, the trial of the person shall be commenced not more than 60 days after bail is denied. If the trial is not commenced within 60 days and the delay is not attributable to the defense, the court shall immediately schedule a bail hearing and shall set bail for the person.

No person shall be imprisoned for debt.

**§ 41. [HABEAS CORPUS]**

The Writ of Habeas Corpus shall in no case be suspended. It shall be a writ issuable of right; and the General Assembly shall make provision to render it a speedy and effectual remedy in all cases proper therefor.